

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.19918 OF 2006

ORAL ORDER:

Heard the learned counsel for the petitioners and perused the material on record.

It is not in dispute that the petitioner-firm availed a loan from the 1st respondent-Bank and committed default in payment of instalments, payable under the terms and conditions agreed upon. It is also not in dispute that the 1st respondent-Bank having invoked the provisions of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the Act"), issued notice under sub-section (2) of Section 13 of the Act on 12.4.2005, calling upon the petitioner-firm to pay a sum of Rs.9,90,517/- due as on that date. Since the petitioner-firm failed to pay the said amount, notice under Section 13(4) of the Act was issued. Thereafter, when the petitioner was served with notice dated 18.9.2006 issued by the Advocate-Commissioner, for taking physical possession of the secured asset, in pursuance of the order of the Chief Metropolitan Magistrate, Hyderabad in CrI.M.P.No.4609 of 2006, this writ petition is filed contending *inter alia*, that the action of the 1st respondent in issuing the impugned notice without prior notice is arbitrary and illegal.

Since, admittedly, the petitioner-firm neither raised any objection under sub-section (3A) of Section 13 of the Act, in response to the notice under Section 13(2) dated 12.4.2005, nor preferred any appeal against the notice under sub-section (4) of Section 13 of the Act, and thus allowed the proceedings to become final, I am unable to hold that the consequential order passed by the Chief Metropolitan Magistrate, Hyderabad under Section 14 of the Act suffers from any error. The interference of this Court, at this stage, is not warranted and, accordingly, the writ petition is dismissed. No costs.

(G. ROHINI, J.)

25th September, 2006.

Issue CC by tomorrow.

Kgr

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Between:

M/s Global Bankers & Confectioneries,
represented by its partners, Shop
No.4 & 5, Ground floor, Creative
Enclave, Gomati Enclave, Moti Nagar,

Hyderabad, represented by its
Partners – A. Srinivasa Reddy &
A. Sanjeeva Reddy.

.. Petitioner.

And
Indian Overseas Bank, Bank Street,
Hyderabad, represented by its
Chief Manager and others.

.. Respondents.